

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

| | | |
|---------------------------------|---|-------------------------------------|
| UNITED STATES OF AMERICA |) | |
| <i>ex rel.</i> Christine Ribik, |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Civil Action No. 1:09 cv 13-CMH-TCB |
| v. |) | (Lead Case) |
| |) | |
| HCR MANOR CARE INC. et al., |) | |
| |) | |
| Defendants |) | |
| |) | |
| |) | |

**RELATOR'S MEMORANDUM IN SUPPORT OF HER MOTION TO PRECLUDE
THE DOJ AND DEFENDANTS FROM
REMOVING MATTERS FROM THE COURT'S DOCKET, INCLUDING PENDING
MOTIONS FOR SUMMARY JUDGMENT, UNLESS THIS PURPORTED
SETTLEMENT IS APPROVED BY THE COURT**

COMES NOW Relator, Christine Ribik, by counsel, and files this, her Supporting Memorandum in Support of her Motion to Preclude the DOJ and Defendants from Removing Matters from the Court's Docket, including Pending Motions for Summary Judgment, unless this Purported Settlement is Approved by the Court, and in support thereof, states as follows:

1. On November 8, 2017, the DOJ informed Relator that they had reached the basic terms of a "settlement" with Defendants, but were working to finalize the details.
2. Under 31 U.S.C. § 3730(c)(2)(B), the Government cannot settle a case without Relator's consent and where Relator objects to the settlement, the Court must conduct a hearing to determine if the proposed settlement is "fair, adequate and reasonable."

3. Relator Ribik and likely Relator Slough¹ intend on requesting a hearing regarding DOJ's proposed "settlement" with the Defendants on the grounds that it is not fair, adequate or reasonable by its terms. Allowing dismissal without such a hearing involving judicial review, would render the approval provisions of the FCA meaningless. *United States ex rel. Schweizer. V. Oce, N.V.*, 677 F.3d 1228 (D. D.C. 2012).

Wherefore, these and other premises considered, Plaintiff respectfully requests that the Court not remove any pending Motions, most notably the Summary Judgment Motions, that are currently pending for resolution on November 9, 2017. A proposed order is attached.

Respectfully Submitted,

/s/ Jeffrey J. Downey

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CERTIFICATE OF SERVICE

I HEREBY AFFIRM that a true and correct copy of the foregoing Memorandum was sent to the below referenced parties and/or their counsel, via first class mail, postage prepaid and was also served on all counsel of record by using the CM/ECF system, which generated a Notice of Electronic filing, on this 8th day of November 2017 :

¹ Based on prior discussions with Counsel for Slough regarding initial settlement discussions, Relator believes that Relator Slough will join her Motion, but counsel for Ribik could not reach counsel for Slough before filing this motion today.

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| |) | |
| |) | |

[Proposed] Order

This Matter comes before the Court this day on Relator Christine Ribik's Motion to Preclude the DOJ and Defendants from Removing Matters from the Court's Docket, including Pending Motions for Summary Judgment, unless this Purported Settlement is Approved by the Court;

As Relator Ribik has a right to object to any settlement pursuant to 31 U.S.C. § 3730(c)(2)(b) and has affirmatively indicated her opposition to the Government and Defendants' proposed settlement, it is hereby,

ORDERED that Relator's Motion is Granted and the Court shall not remove any pending motions from the docket until such time as the Court has either approved the settlement or a final order has been entered.

U.S. District Court Judge